

**Statement of Senator Patrick Leahy
Ranking Member, Judiciary Committee
“PATRIOT Games”
Senate Floor
November 18, 2005**

MR. LEAHY. Mr. President, the current consideration by the Congress of a rewrite of the USA PATRIOT Act is a significant event. These are important issues, and they have become increasingly important to the American people.

This bill, more than any other, must have the confidence of the American people. I understand that and Chairman Specter understands that. I commend the Chairman for his commitment to work in a bipartisan manner, both during the Committee process and throughout the House-Senate conference. He and I agree with the vast majority of Americans that a reauthorization of the PATRIOT Act's expiring provisions must be accomplished in a bipartisan process, not in a bitter, partisan battle.

The PATRIOT Act suffers from an image problem. This perception problem stems in large measure because of the rhetoric, practices and secrecy of the Bush Administration and the Ashcroft Justice Department. The antidote is clear and it is simple - less secrecy, more congressional oversight, more judicial review and an adjusted balance that better protects the rights and liberties of all Americans.

That is what we produced here in the Senate when first the Senate Judiciary Committee and then the Senate unanimously adopted our PATRIOT Act reauthorization bill. We worked together and we did so in a timely manner, completing our work in July. The Senate appointed conferees immediately. Regrettably, the House did not follow suit. They delayed more than three months until November 9, just last week and just a week before Congress was scheduled to recess. We lost three months that we could have used to find common ground and create a better bill. Unfortunately, the House Republican leadership played games with the PATRIOT Act while the clock was ticking.

Even last week, with conferees newly appointed by the House, I was hopeful that in our limited time, we could negotiate in good faith and reach a bipartisan, bicameral agreement. We made some progress over the weekend on important issues, reaching a tentative agreement on improved reporting requirements that would shine some light on the use of certain surveillance techniques. I believed that we were close to striking a reasonable balance on the core civil liberties issues raised by the PATRIOT Act.

But on Sunday, the Bush Administration stepped in and with the acquiescence of congressional Republicans the bipartisan negotiations were abruptly ended. The curtain came down. Democratic participation was excluded from the process. As a result the tentative agreements were scuttled based on Bush Administration demands.

Further impeding bipartisan progress, the conference report was being loaded up with controversial provisions that had nothing to do with the PATRIOT Act, terrorism, or anything in either the House or Senate-passed bills. The PATRIOT Act suddenly was being used as a vehicle of convenience to pass laws that could not be passed on their own merit. This overreaching by the House Republican conferees caused more time to be lost, and because of the ill-advised choices that were made late in this process, the conference report is not what it should be.

The needless and divisive chapter in the late stages of what should have been – can what could have been – an open and bipartisan conference threatens to undermine national consensus on this bill. Sadly, it also threatens national confidence in how we as a Congress can best address these important issues. Before the Bush Administration butted in and grabbed the reins, we were close to a compromise that could have been acceptable to almost all members of Congress and to the American public. This is not that conference report. I am not sure that this conference report can win the confidence of the American people. Rather than seek common ground with the Congress and with the American people that we represent, the Bush Administration and Republican conferees have taken abused their power and taken terrible advantage.

Just two months ago, we observed the fourth anniversary of the horrific attacks of September 11, 2001. In the aftermath of the attacks, Congress moved quickly to pass anti-terrorism legislation. The fires were still smoldering at Ground Zero when the USA PATRIOT Act became law on October 30, 2001, just six weeks after the attacks.

Many of us here today worked together in a spirit of bipartisan unity and resolve to craft a bill that we had hoped would make us safer as a Nation. Freedom and security are always in tension in our society, and especially so in those somber weeks after the attacks, but we tried our best to strike the right balance. One of the fruits of that bipartisanship was the sunset provisions contained in the PATRIOT Act. These sunsets have allowed us some opportunity to obtain key information Americans have a right to know, and to revisit these matters to add more sunshine and oversight. Those sunsets were supported by Dick Armey, the Republican House Majority Leader and by me in the Senate – an unlikely duo I concede, but in this case, a successful and productive alliance that proved to benefit the American people. We prevailed, thank goodness.

Sadly, the Bush Administration and Republican congressional leadership has largely squandered this opportunity to refine the PATRIOT Act. Instead, they are insisting on a continuing assault on habeas corpus rights and adding other extraneous matters. Working with Chairman Specter, we are insisting on modifications to the conference report that will make it more protective of civil liberties and increase opportunities for oversight, including a 4-year sunset.

I thank Senators Kennedy, Rockefeller and Levin for their efforts to improve the draft circulated to us this week. I know that some Senate Republican conferees were not satisfied that the draft fully protected Americans' civil liberties and thank them for working to improve this important measure. I hope that the other conferees will work

with us to arrive at a conference report that we all can support and that we can take to the American people together.

If the Bush Administration would cooperate with us -- the people's representatives -- we will be better able to refine the authorities and uses of national security letters and the other tools provided in the law. Without that cooperation, with the veil of secrecy cloaking so much activity, neither Congress nor the American people will know or trust what the government is doing.

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